

1
2
3 Nathan Buttars * (UT-13659)
4 Jonathan Peck * (UT-14747)
5 *Admitted Pro Hac Vice
6 LOWE LAW GROUP
7 6028 S. Ridgeline Drive, Suite 200
8 Ogden, UT 84405
9 T: 801-917-8500
F: 801-917-8484
nate@lowelawgroup.com
jonathan@lowelawgroup.com
Attorneys for Plaintiffs

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 IN RE BARD IVC FILTERS PRODUCTS
13 LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

14 Elizabeth Leyva, an individual,
15 Plaintiff,

Civil Action No.: 2:16-cv-01758-PHX-DGC

16 v.

17 **FIRST AMENDED MASTER SHORT**
18 **FORM COMPLAINT FOR DAMAGES**
19 **FOR INDIVIDUAL CLAIMS**

18 C.R. Bard, Inc., a corporation, and Bard
19 Peripheral Vascular, Inc., an Arizona
corporation,

20 Defendants.

21
22 Plaintiff(s) named below, for their Complaint against Defendants named below,
23 incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

24 Plaintiff(s) further show the Court as follows:

25 1. Plaintiff:

26 Elizabeth Leyva
27
28

2. Spousal Plaintiff or other party making loss of consortium claim:

Juan Leyva

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. Plaintiff's state(s) [if more than one Plaintiff] of residence at the time of implant:

California

5. Plaintiff's state(s) [if more than one Plaintiff] of residence at the time of injury:

California

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Oregon and Mexico

7. District Court and Division in which venue would be proper absent direct filing:

Southern District of California

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

- ☐ Recovery[®] Vena Cava Filter
- ☒ G2[®] Vena Cava Filter
- ☐ G2[®] Express Vena Cava Filter
- ☐ G2[®] X Vena Cava Filter
- ☐ Eclipse[®] Vena Cava Filter
- ☐ Meridian[®] Vena Cava Filter
- ☐ Denali[®] Vena Cava Filter
- ☐ Other: _____

11. Date of Implantation as to each product:

June 14, 2006

12. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability – Manufacturing Defect
- ☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)
- ☒ Count III: Strict Products Liability – Design Defect

- 1 X Count IV: Negligence - Design
- 2 X Count V: Negligence - Manufacture
- 3 X Count VI: Negligence – Failure to Recall/Retrofit
- 4 X Count VII: Negligence – Failure to Warn
- 5 X Count VIII: Negligent Misrepresentation
- 6 X Count IX: Negligence *Per Se*
- 7 X Count X: Breach of Express Warranty
- 8 X Count XI: Breach of Implied Warranty
- 9 X Count XII: Fraudulent Misrepresentation
- 10 X Count XIII: Fraudulent Concealment
- 11 X Count XIV: Violations of Applicable California Law Prohibiting
- 12 Consumer Fraud and Unfair and Deceptive Trade Practices
- 13 X Count XV: Loss of Consortium
- 14 □ Count XVI: Wrongful Death
- 15 □ Count XVII: Survival
- 16 X Punitive Damages
- 17 □ Other(s):_____ (please state the facts supporting
- 18 this Count in the space immediately below)
- 19 _____
- 20 _____
- 21 _____
- 22 _____
- 23 _____
- 24 _____
- 25 _____
- 26 _____
- 27 _____
- 28 _____

13. Jury Trial demanded for all issues so triable?

X Yes

– No

RESPECTFULLY SUBMITTED this 13th day of July, 2016.

LOWE LAW GROUP

By: /s/ Jonathan Peck
Nathan Buttars (UT 13659)
Jonathan Peck (UT 14747)
(Admitted Pro Hac Vice)
6028 S. Ridgeline Drive
Suite 200
Ogden, UT 84405
T: 801-917-8500
F: 801-917-8484
E: nate@lowelawgroup.com
jonathan@lowelawgroup.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Jonathan Peck